

U.S. DISTRICT COURT  
WESTERN DISTRICT OF LOUISIANA  
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UNITED STATES DISTRICT COURT

WESTERN DISTRICT OF LOUISIANA

LAKE CHARLES DIVISION

DAO HUA HUANG  
A 98497728

CIVIL ACTION NO. 08-0372  
SECTION P

VS.

JUDGE MINALDI

DIRECTOR, U. S. IMMIGRATION AND  
CUSTOMS ENFORCEMENT

MAGISTRATE JUDGE KAY

**REPORT AND RECOMMENDATION**

Before the Court is a petition for a writ of *habeas corpus* filed by *pro se* petitioner Dao Hua Huang filed pursuant to 28 U.S.C. § 2241. [Doc. 1]. This matter has been referred to the undersigned magistrate judge for review, report and recommendation in accordance with 28 U.S.C. § 636(b)(1)(B).

In his petition, Petitioner states that he is a native and citizen of the People's Republic of China who has been detained under a final order of removal issued on September 12, 2007. In his supporting materials, Petitioner indicates that he has cooperated with Immigrations and Customs Enforcement but they have been unable to effectuate his removal. [Doc. 1]. Because he has been in detention for more than six months, Petitioner contends that there is no significant likelihood of removal in the reasonably foreseeable future and, therefore, he seeks to have this Court order his release.

In light of facts presented by Petitioner, the Court ordered the government to respond to the petition. In its response, the government moves to dismiss the petition as moot and for lack of jurisdiction because Petitioner is no longer in federal custody. [Doc. 8]. In support of this contention, the government presents documentation that establishes that Petitioner was released from institutional detention to an order of supervision on or about May 27, 2008. [Doc. 8, attachment #2]. Included is a declaration by BICE Assistant Field Office Director Scott

Sutterfield, that a review of the BICE database indicates that Petitioner was released pursuant to an order of supervision on May 27, 2008. *Id.* In addition, BICE has included a "Release Notification," which includes a certificate of service, *Id.*, and an "Order of Supervision," the acknowledgment portions of which are signed and dated by Dao Hua Huang. *Id.*

At the time that his petition was filed, Petitioner was in post-removal order custody pursuant to the statutory authority of United States Immigration and Customs Enforcement. However, as Petitioner was released from custody on May 27, 2008, the Court finds that his challenge to his detention is now moot and should be dismissed.

Accordingly,

IT IS RECOMMENDED that the government's Motion to Dismiss for Lack of Jurisdiction be GRANTED, and that Petitioner's petition for writ of *habeas corpus* be DENIED and DISMISSED WITH PREJUDICE.

Under the provisions of 28 U.S.C. § 636(b)(1)(C) the parties have ten (10) business days from receipt of this Report and Recommendation to file any objections with the Clerk of Court. Timely objections will be considered by the district judge prior to a final ruling.

**FAILURE TO FILE WRITTEN OBJECTIONS TO THE PROPOSED FINDINGS AND RECOMMENDATIONS CONTAINED IN THIS REPORT WITHIN TEN (10) BUSINESS DAYS FROM THE DATE OF SERVICE SHALL BAR AN AGGRIEVED PARTY FROM ATTACKING ON APPEAL, EXCEPT UPON GROUNDS OF PLAIN ERROR, THE UNOBJECTED-TO PROPOSED FACTUAL FINDINGS AND LEGAL CONCLUSIONS ACCEPTED BY THE DISTRICT COURT.**

THUS DONE AND SIGNED in Chambers at Lake Charles, Louisiana, this 1<sup>st</sup> day of ~~June~~ <sup>July</sup> 2008.

  
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KATHLEEN KAY  
UNITED STATES MAGISTRATE JUDGE